



## CITY DEVELOPMENT DEPARTMENT

### ZONING BOARD OF ADJUSTMENT MEETING MINUTES

CITY COUNCIL CHAMBERS, 2<sup>ND</sup> FLOOR, CITY HALL

JULY 9, 2012

1:30 P.M.

Vice-Chair Mendez called the meeting to order at 1:30 p.m.

The following Board Members answered roll call:

Mr. Rigoberto Mendez, Vice-Chair

Mr. Ken Gezelius

Mr. Mike Schwartz

Mr. Michael Bray

Mr. Rick Cordova

Mr. Robert Concha, Jr.

Mr. Lamar Skarda

Mr. James Wolff

The following City Staff were present:

Ms. Linda Castle, City Development Department, Zoning Board of Adjustment Coordinator

Mr. Alex Hoffman, City Development Department, Lead Planner

Mr. Juan Estala, City Development Department, Chief Plans Examiner

Ms. Kristen Hamilton, City Attorney's Office, Assistant City Attorney

### CHANGES TO THE AGENDA

*None.*

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ITEM 1:

Second Revision

PZBA12-00018                      5001 Dyer Street                      Earl Scheib Realty Corporation

Applicant requests a Special Exception under Section 2.16.050 K (15 Years or More, Rear Yard Setback) in a C-4 (Commercial) zone. This would permit a 94.7' by 10' portion of a building which is encroaching into the rear yard setback and is located to within 0' of the rear property line. The required rear yard setback is 10 feet in the C-4 zone district. *This case was previously heard at the May 14, 2012, ZBA meeting. The Board requested staff to investigate further the issues involving the encroachments to the front and rear property lines.* The applicant purchased the subject property in 1987 (see copy of warranty deed). The 1986 aerial shows that the entire building is encroaching to the rear property line. At some time prior to the 1986 aerial, the building was extended to the rear property line, prior to the current owner taking ownership of the building. Further, a portion of the building is built to 0' of the front property line. Research of Building Permits & Inspections microfiche records reveals building permit #'s B64831 (1979), B87286 (1981), B07585 (1984), and B34711 (1987, interior improvements), all submitted with site plans showing the encroaching portions of the building, extending to the rear and front property lines, as it exists today. *The building exists in the 1956 aerial with the required yard setbacks at the front, rear and side street; therefore, Planning could not register the property as legally nonconforming for encroachments into the front and rear yard setbacks, existing prior to the effective date of the zoning code, 1955.* Regarding the encroachment in the front setback to within 0' of the front property line, a recent (March 20, 2012) code change to Title 20, Zoning, Appendix B (Table of Density and Dimensional Standards), permits a 0' front yard setback in the C-4 zone district. **STAFF RECOMMENDATION IS FOR APPROVAL OF THE REQUEST FOR THE SPECIAL EXCEPTION K AS IT MEETS THE REQUIREMENTS.**

Ms. Castle gave a PowerPoint presentation and clarified Staff is requesting Board Members make a determination regarding the encroachment to the rear property line. Furthermore, Staff did not receive any phone calls, emails or letters in favor of or in opposition to the request.

Mr. Joseph Balsiger, attorney representing the potential property owner, was present.

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Vice-Chair Mendez asked if Board Members had any questions and/or comments. There were none.

Vice-Chair Mendez asked if anyone in the audience wished to speak in favor of or in opposition to the request. There was no response.

**MOTION:**

*Motion made by Mr. Cordova, seconded by Mr. Bray AND UNANIMOUSLY CARRIED TO APPROVE.*

**ITEM 2:**

PZBA12-00022                      7308 Wind Song Drive                      Robert Kilby  
Applicant requests a Special Exception under Section 2.16.050 C (Rear Yard Setback) in an R-3 (Residential) zone. This would allow the addition of a 37'10" by 13' sunroom of which a 28'7" by 12' portion is proposed to encroach into the required rear yard setback and to be located to within 11'6" of the rear property line. The required front and rear yard cumulative setback total is 50 feet in the R-3 zone district. The request is to add a sunroom of which 342 square feet is proposed to encroach into the required rear yard setback. An 11' by 13' (143 square feet) patio is also proposed; 180 square feet of open porch is permitted to encroach into the rear yard setback. *A site visit reveals that construction has begun; there is no permit on file.* **STAFF RECOMMENDATION IS FOR APPROVAL AS THE APPLICATION MEETS THE REQUIREMENTS FOR THE SPECIAL EXCEPTION C, WITH A CONDITION THAT THE PROPOSED PATIO SHALL NEVER BE ENCLOSED.**

Ms. Castle gave a PowerPoint presentation and noted that an arroyo and the Albertson's shopping center are located directly behind the residence.

Mr. Bill Juen, contractor representing the applicant, was present.

Vice-Chair Mendez asked if Board Members had any questions and/or comments for Mr. Juen. There were none.

Vice-Chair Mendez asked if anyone in the audience wished to speak in favor of or in opposition to the request. There was no response.

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**MOTION:**

*Motion made by Mr. Gezelius, seconded by Mr. Schwartz AND UNANIMOUSLY CARRIED TO ACCEPT STAFF'S RECOMMENDATION.*

*Prior to the meeting, Staff distributed copies of an email, from a neighboring property owner (720 Camino Real), objecting to the request.*

**ITEM 3:**

PZBA12-00023                      716 Camino Real Avenue                      Daniel Contreras  
Applicant requests a Special Exception under Section 2.16.050 B (Two or More Non-conforming) in an R-1 (Residential) zone. This would permit additions which are proposed to encroach into the required side yard setbacks, to within 9'8" of the westerly side property line and to within 10' of the easterly side property line for a cumulative side yard setback total of 19'8". The required cumulative side yard setback total is 40 feet in the R-1 zone district. The request is for the Special Exception that allows setback encroachments that are no more nonconforming than two other existing properties in the same block or directly across the street. There appear to be several properties with encroachments into the side setbacks:

- The house at 720 Camino Real is built to within 3' of the east side setback, existing in the 1956 aerial.
- The property at 728 Camino Real received permission on July 8, 1959 from the ZBA to build house into required side yard; it appears to be within 5' of the east side setback. The 728 Camino Real property received another ZBA approval on June 13, 2005, for an encroachment into the westerly side yard to within 10' of the property line.
- The property at 736 Camino Real appears to be built to within 10' of the east side setback.

**STAFF RECOMMENDATION IS FOR APPROVAL AS IT MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION B.**

Ms. Castle gave a PowerPoint presentation and noted an email from the neighboring property owner, at 720 Camino Real, who is objecting to the request.

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Mr. Raymond Bonilla, representing the applicant, was present.

Vice-Chair Mendez asked if Board Members had any comments and/or questions of the representative.

Mr. Bray and Ms. Castle debated the limits of non-conforming properties specific to this Special Exception, Section 2.16.0250 B (Two or More Non-conforming).

Vice-Chair Mendez asked if anyone in the audience wished to speak in favor of or in opposition to the request. There was no response.

**MOTION:**

*Motion made by Mr. Skarda, seconded by Mr. Wolff AND UNANIMOUSLY CARRIED TO APPROVE WITH STAFF RECOMMENDATION.*

**ITEM 4:**

PZBA12-00024                      1416 Fewel Street                      Romack – Eddings, Inc.  
Applicant requests a Special Exception under Section 2.16.050 B (Two or More Non-conforming) in an R-4/H (Residential/Historic) zone. This would allow the construction of a new single-family dwelling which is proposed to be located to within 10' of the front property line and to within 16'9" of the rear property line for a cumulative front and rear yard setback total of 26'9". The required front and rear yard cumulative total setback is 45 feet in the R-4 zone district. The applicant is requesting the Special Exception to build a new house on a lot that is vacant except for an existing building, a garage, which has existed since at least 1955 and which will remain. There are two adjacent properties on the same side of the street at 1418 and 1420 Fewel that are built at or closer than 10 feet to the front and rear property lines. **STAFF RECOMMENDATION IS FOR APPROVAL AS THE APPLICATION MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION B.**

Ms. Castle gave a PowerPoint presentation and noted the garage, built prior to 1955, will remain. She noted the proposed structure does meet the side yard setbacks.

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Ms. Kristi Eddings, current owner and contractor, clarified a sidewalk would be put in.

Vice-Chair Mendez asked if anyone in the audience wished to speak in favor of or opposition to the request.

### **OPPOSITION**

Ms. Nora Rojas, proposed neighbor, explained both she and her mother are opposed to the request due to:

- a. The size of the lot is too small for the proposed size of the home;
- b. The proposed home would encroach on her property, more specifically the view;
- c. Ms. Rojas wondered who would be living there and how many vehicles would there be;
- d. Due to the college students, there is no available on-street parking

Ms. Eddings noted the proposed square footage of the home will be 1,326; furthermore, two vehicles can be parked in the two-car garage located in the rear.

### **MOTION:**

*Motion made by Mr. Bray, seconded by Mr. Wolff AND UNANIMOUSLY CARRIED TO APPROVE.*

*Prior to the meeting, Staff distributed copies of:*

1. *Consent to Encroachment letter from Southwestern Bell Telephone Company registering 'no objection' to encroaching on the utility easement;*
2. *A Memorandum from Mr. Juan Estala, Chief Building Plans Examiner, finding that the carport's structural design was reviewed and was found to be acceptable*
3. *Revised Site Plan which shows what will be demolished*

### **ITEM 5:**

PZBA12-00017                      12597 Gilded Sun Drive                      Rodolfo S. Jaramillo  
Applicant requests a Special Exception under Section 2.16.050 J (Carport over a Driveway) in an R-4 (Residential) zone. This would permit a 19' by 17' portion of an existing carport that is proposed to encroach into the front yard setback and to be located to within 5 feet of the front property line. The required front and rear

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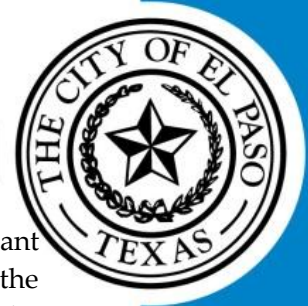
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yard cumulative setback total is 45 feet in the R-4 zone district. The applicant built a carport without permit and is requesting to keep 323 square feet of the existing 454 square feet carport. Approximately 131 square feet will be demolished to comply with the requirements of the Special Exception. The plans shall indicate that the roof of the carport is not higher than the roof of the house and that the carport shall match the house in materials and design. There is a utility easement at the front property line; the applicant's representative has been requested to contact the utility companies for letters of no objection to build over the easement. The Building Permits & Inspection Division has reviewed the structural plans and notes several needed corrections. ~~STAFF RECOMMENDATION IS PENDING RECEIPT OF REVISED ELEVATION AND STRUCTURAL DRAWINGS AND WRITTEN RESPONSES FROM UTILITY COMPANIES.~~ STAFF RECOMMENDS APPROVAL OF THE SPECIAL EXCEPTION BASED ON THE APPROVAL FROM THE BUILDING PERMITS & INSPECTIONS DIVISION OF THE STRUCTURAL.

Ms. Castle gave a PowerPoint presentation and noted that Staff did not receive any phone calls, letters or emails in favor of or opposition to the request.

Vice-Chair Mendez asked if Board Members had any comments and/or questions of the representative.

Mr. Bray wondered if additional curb cuts had been installed and/or will the Board address that or leave it as is.

Ms. Castle explained the Traffic Engineering Division reviewed the request and determined that there were no issues or concerns.

Mr. Bray and Mr. Luis Sariñana, contractor, discussed the proposed existence, width and purpose of the additional curb cuts.

Chair Aguilar asked if anyone in the audience wished to speak in favor of or opposition to the request. There was no response from the audience.

**MOTION:**

*Motion made by Mr. Skarda, seconded by Mr. Gezelius AND UNANIMOUSLY CARRIED TO APPROVE.*

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Staff suggested Board Members clarify the motion language to approve the request to include the revised site plan.

Mr. Estala requested Board Members include in the motion language the removal of a portion of the carport to meet the requirements, per the revised Site Plan.

***MOTION CLARIFIED:***

*Motion made by Mr. Skarda, seconded by Mr. Gezelius AND UNANIMOUSLY CARRIED TO APPROVE **BASED ON THE REVISED SITE PLANS.***

**Other Business – Discussion and Action:**

**6. Approval of Minutes: June 11, 2012**

Chair Aguilar asked if Board Members had any additions/corrections/revisions to the minutes. There was no response from the Board.

**MOTION:**

Motion made by Mr. Wolff, seconded by Mr. Skarda **AND UNANIMOUSLY CARRIED TO APPROVE THE JUNE 11, 2012 MEETING MINUTES.**

**ABSTAIN:** Messrs. Schwartz and Bray

**7. Discussion regarding Section 2.16.050 J (Carport over a Driveway)**

*There was no discussion.*

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**PRIOR TO ADJOURNMENT**

1. PZBA12-00018, 5001 Dyer Street, Special Exception K, Section 2.16.050 K (15 Years or More, Rear Yard Setback)

To Ms. Hamilton, Mr. Skarda stated there seems to be two different rules:

1. The Board approved 0' front yard setback in a C-4 district today;

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2. However, Section 2.16.050 K 4. states *"The encroachment, if into the required front yard setback, does not exceed fifty percent of the required front yard setback"*

Ms. Hamilton explained what was presented to the Board today was a request to encroach into the 10' required rear yard setback. The current zoning in a C-4 (Commercial) zone allows 0' front yard setback.

Staff and Board Members discussed various interpretations of Section 2.16.050 K, numbers 1. through 5.

2. To Staff, Mr. Skarda questioned why the Gilded Sun property was on the agenda.

Ms. Castle surmised a neighbor had complained and/or a City Inspector drove through the neighborhood and noticed the construction.

**MOTION:**

Motion made by Mr. Gezelius, seconded by Mr. Schwartz **AND UNANIMOUSLY CARRIED TO ADJOURN AT 2:15 P.M.**

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Linda Castle, Senior Planner

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